LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6565 | **NOTE PREPARED:** Jan 15, 2007
BILL NUMBER: HB 1631 | **BILL AMENDED:**

SUBJECT: Restrictions on Public Benefits to Illegal Aliens.

FIRST AUTHOR: Rep. Harris T | **BILL STATUS:** As Introduced
FIRST SPONSOR:

FUNDS AFFECTED: X GENERAL | **IMPACT:** State & Local
X DEDICATED
X FEDERAL

Summary of Legislation: This bill prohibits a state agency or political subdivision from providing federal, state, or local public benefits to a person who is not: (1) a United States citizen; (2) a legal permanent resident; or (3) otherwise lawfully present in the United States under federal law.

The bill requires that after June 30, 2008, a state agency or a political subdivision must verify the lawful presence of each individual in the United States who: (1) is at least 18 years of age; and (2) applies for federal, state, or local public benefits administered by the agency or political subdivision. The bill also requires a state agency or a political subdivision to: (1) verify the lawful presence of the person by requiring the person to execute a verified affidavit stating that the person is a United States citizen, a legal permanent resident, or otherwise lawfully present in the United States under federal law; (2) provide an annual report with respect to the agency's or political subdivision's compliance with the verification requirements; (3) verify the lawful presence of certain individuals through the Systematic Alien Verification of Entitlements (SAVE) program; and (4) report errors and significant delays in the SAVE program.

The bill provides that: (1) an agency or a political subdivision may provide variations of the verification of lawful presence requirements; and (2) a person who makes a false, fictitious, or fraudulent statement of representation in an affidavit verifying lawful presence commits a violation of welfare fraud or Medicaid fraud.

Effective Date: July 1, 2007.

Explanation of State Expenditures: This bill requires an agency or a political subdivision (i.e., municipal corporations and special taxing districts) to verify the lawful presence of each individual in the United States who is at least 18 years of age and applies for federal, state, or local public benefits that are administered by the agency or political subdivision before the agency or political subdivision may provide benefits to the individual.

Federal, state, or local benefits are defined under the bill as: (a) any grant, contract, loan, professional license, or commercial license appropriated funds of the United States, (b) any retirement, welfare, health, disability, public or assisted housing, postsecondary education, food assistance, unemployment benefit, or any other similar benefit for which payments or assistance are provided to an individual, household, or family eligibility unit by appropriated funds of the United States. *Note*: Certain benefits are exempted from this definition under the bill.

Verification of a person's lawful presence is to be conducted through requiring the person to execute a verified affidavit stating that the person is a United States citizen, a legal permanent resident, or otherwise lawfully present in the United States. Furthermore, if the person executes an affidavit stating that they are an alien lawfully present in the Untied States, an agency or political subdivision is required to verify the lawful presence of the person through the federal Systematic Alien Verification of Entitlements Program.

Programs which do not currently verify legal status would be required to do so and would experience a minimal increase in administrative duties. The SAVE program reports that currently the Department of Workforce Development (DWD), Bureau of Motor Vehicles (BMV), Family and Social Services Administration (FSSA), and Indiana Housing and Community Development Authority (IHCDA), access the SAVE program to verify legal residency in the United States for certain applicants.

This provision of the bill could potentially reduce the number of persons in the state who are eligible for federal, state, or local benefits. This could result in savings for the state or allow the state to redirect the funds to other persons needing services within a program for which services were not provided under the bill. It should be noted, however, that some benefits may already be restricted to persons legally in the United States (see *Background Information*). Actual savings for the state would be dependent on the number of persons no longer eligible for services and the type and cost of services that they would otherwise receive. [*Note*: Some of these programs may be reimbursable by the federal government. Should the state not reallocate the funds to other persons within a program for services, the state could potentially reduce its overall federal funding.]

Background Information: While not all programs which are currently restricted to legal residents and which require verification may be completely identified below, some of the major programs are the following. The FSSA reports that services under Medicaid, Food Stamps, and Temporary Assistance for Needy Families (TANF) are already restricted to persons legally present in the United States. The programs require various types of documents to prove legal residence including birth certificates, social security cards, and ICE visa or documentation. The IHCDA reports that all programs, with the exception of the Low-Income Home Energy Assistance Program (LIHEAP), require a social security number. The Township Association reports that persons receiving township assistance must be eligible for TANF and that documentation of citizenship is required.

The Higher Education Commission reports that currently there are no state laws pertaining to state educational institutions and admission of persons attending who are not in the United States legally. Decisions pertaining to admission are made by each individual school's board of trustees. Currently, there are no board of trustee official policies. The number of students who attend a state educational institution and would no longer be eligible to attend under the bill is not known. State educational institutions would not necessarily experience an increase or decrease in expenditures and/or revenues. A student not admitted under the bill might be replaced by another eligible student.

IC 22-4-14-9 states that undocumented persons are not eligible for unemployment benefits

The Urban Institute estimated that as of 2002 there were 75,000 to 100,000 undocumented persons in Indiana.

Penalty Provision: Under the bill, a person who makes a false, fictitious, or fraudulent statement of representation in an affidavit executed to verify their legal presence in the United States commits welfare or Medicaid fraud.

Welfare fraud is a Class A misdemeanor. It is a Class D felony if the amount of public relief or assistance involved is more than $250 but less than $2,500 or the amount is more than $250 and the person has a prior conviction of welfare fraud. It is a Class C felony if the amount of public relief or assistance involved is $2,500 or more. Medicaid fraud is a Class D felony. It is a Class C felony if the fair market value of the offense if at least $100,000.

A Class C felony is punishable by a prison term ranging from two to eight years depending upon mitigating and aggravating circumstances. A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. Assuming offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately $1,825 annually, or $5 daily, per prisoner. However, any additional expenditures are likely to be small. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately 10 months, and it is approximately 2 years for a Class C felony.

Adoption of Rules/Ordinances/Resolutions & Written Reports: The bill allows an agency to adopt rules and a political subdivision to adopt an ordinance or a resolution to carry out the requirements of the bill. In addition, the bill requires an agency or political subdivision that administers a program that provides federal, state, or local benefits to provide an annual written report with respect to the agency's or political subdivision's compliance under the bill to the Legislative Services Agency. State agencies and political subdivisions should be able to do so within their existing level of resources.

Explanation of State Revenues: *Penalty Provision*: If additional court cases occur and fines are collected, revenue to both the Common School Fund (from criminal fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class C or D felony is $10,000, and it is $5,000 for a Class A misdemeanor. Any additional revenues would likely be small.

Explanation of Local Expenditures: *Penalty Provision*: If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. However, any additional expenditures would likely be small. A Class A misdemeanor is punishable by up to one year in jail.

Explanation of Local Revenues: *Penalty Provision*: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, any change in revenue would likely be small.

State Agencies Affected: All state agencies.

Local Agencies Affected: Municipal corporations; Local law enforcement agencies.

Information Sources: Philip Busch, U.S. Department of Homeland Security; Department of Health; Department of Child Services; Amy Davis, Family and Social Services Administration; Higher Education Commission; Stephen Buschmann, Indiana Township Association; Sherry Seiwert, Indiana Housing and Community Development Authority; *Urban Institute, Undocumented Immigrants: Facts and Figures*, 2004.

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